

Amendment No. 1 to HB0521

Terry
Signature of Sponsor

AMEND Senate Bill No. 898

House Bill No. 521*

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Section 4-29-246(a), is amended by inserting the following as a new subdivision:

() Professional music therapy advisory committee of the board of examiners in psychology, created by § 63-11-601.

SECTION 2. Tennessee Code Annotated, Title 63, Chapter 11, is amended by adding the following as a new part:

63-11-601.

(a) The practice of music therapy in this state is declared to affect the public health, safety, and welfare of citizens of this state.

(b) To assist the board of examiners in psychology in the performance of its duties, there is established the professional music therapy advisory committee of the board of examiners in psychology to protect the public from:

(1) The practice of music therapy by unqualified persons; and

(2) Unprofessional, unethical, and harmful conduct by music therapy practitioners.

(c) A person shall not represent to be or function as a professional music therapist in this state unless the person holds a valid certificate issued by the advisory committee. The committee shall also regulate the practice of music therapy.

63-11-602.

As used in this part:

(1) "Advisory committee" means the professional music therapy advisory committee of the board of examiners in psychology, created by § 63-11-601;

(2) "Board" means the board of examiners in psychology;

(3) "Board-certified music therapist" means an individual who holds a current board certification from the certification board for music therapists;

(4) "Certified professional music therapist" means a person certified to practice music therapy under this part;

(5) "Music intervention" means the use of therapy that includes music improvisation, receptive music listening, song writing, lyric discussion, music and imagery, singing, music performance, learning through music, music combined with other arts, music-assisted relaxation, music-based patient education, electronic music technology, adapted music intervention, and movement to music; and

(6) "Music therapy":

(A) Means the clinical and evidence-based use of music interventions to accomplish individualized goals for people of all ages and ability levels within a therapeutic relationship by a board-certified music therapist; and

(B) Does not include the screening, diagnosis, or assessment of any physical, mental, or communication disorder.

63-11-603.

(a) The professional music therapy advisory committee of the board of examiners in psychology consists of five (5) members appointed by the governor. The advisory committee is authorized to issue certificates to persons who meet the requirements specified in this part, and to promulgate rules for the implementation of the part, including, but not limited to, the setting of fees and the establishment of disciplinary

actions. The advisory committee shall maintain a list of all certified professional music therapists and shall provide the list to any interested party on written request.

(b) Except as otherwise provided in subsection (e), advisory committee members must be certified professional music therapists and must be actively engaged in the practice or teaching of music therapy in this state at the time of their appointment, except that initial appointments to the advisory committee made prior to the promulgation of rules to implement this part must be board-certified music therapists who are residents of this state and have engaged in the practice of music therapy for not less than five (5) years.

(c) The governor shall consult with interested music therapy groups, including a professional organization that represents the profession of music therapy in this state, to determine qualified persons for appointment as advisory committee members.

(d)

(1) Except as provided in subdivision (d)(2), the terms of the members of the advisory committee are four (4) years.

(2) In order to stagger the terms of the newly appointed advisory committee members as provided in subsection (a), initial appointments are to be made as follows:

(A) One (1) person serves an initial term of one (1) year, which expires on June 30, 2024;

(B) Two (2) persons serve initial terms of two (2) years, which expire on June 30, 2025;

(C) One (1) person serves an initial term of three (3) years, which expires on June 30, 2026; and

(D) One (1) person serves an initial term of four (4) years, which expires on June 30, 2027;

(3)

(A) Following the expiration of members' initial terms as prescribed in subdivision (d)(2), all four-year terms begin on July 1 and terminate on June 30, four (4) years thereafter.

(B) In the event of a vacancy, the governor shall fill the vacancy for the unexpired term. Each member shall serve until a successor is duly appointed and qualified.

(C) Members are eligible for reappointment to the advisory committee following the expiration of their initial terms, but shall serve no more than two (2) consecutive four-year terms.

(e) All initial appointees to the advisory committee under subdivision (d)(2) must become certified therapists no later than July 1, 2024, in order to continue to serve as members of the committee.

(f) All reimbursement for travel expenses must be in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter. Members of the advisory committee serve without compensation, but are entitled to receive necessary travel and other appropriate expenses while engaged in committee business.

(g) The advisory committee shall elect a chair from among its members at the first meeting held each fiscal year.

(h) The division of health-related boards in the department of health shall provide administrative support to the advisory committee.

(i)

(1) The advisory committee shall meet at least twice a year and may hold additional meetings as the advisory committee may determine necessary to carry out its duties under this part.

(2) A member who misses more than fifty percent (50%) of the scheduled meetings in a calendar year may be removed as a member of the advisory committee.

(3) The chair of the advisory committee shall promptly notify, or cause to be notified, the appointing authority of a member who is removed for failing to satisfy the attendance requirement in subdivision (i)(2).

(j)

(1) Any action taken by the advisory committee must be approved by the board.

(2) Any actions taken in accordance with this part are only effective after adoption by majority vote of the members of the advisory committee and after adoption by a majority vote of the members of the board at the next board meeting at which administrative matters are considered following the adoption by the advisory committee.

63-11-604.

(a) The advisory committee shall:

(1) Promulgate rules for the implementation of this part, including rules to establish:

(A) Requirements and procedures for certification and certification renewal for certified professional music therapists;

(B) Standards of practice, ethics, and professional responsibility to govern the conduct of persons certified under this part;

(C) Procedures for investigating reports of professional misconduct and unlawful acts by certified professional music therapists; and

(D) Criteria and procedures for certification by endorsement and reciprocity, waiver of examinations, and temporary certificates;

(2) Establish reasonable and necessary fees for certification and certification renewal that, in the aggregate, cover the cost of administering this part; and

(3) Maintain a list of persons holding certificates under this part, to be provided to any interested party upon written request.

(b) The advisory committee shall also:

(1) Review issues related to complaints and disciplinary actions involving certified professional music therapists;

(2) Review the qualifications of certification applications and issue certificates to individuals who meet the requirements for certification under this part;

(3) Establish guidelines and criteria for continuing education for the renewal of certificates; and

(4) Perform additional duties and responsibilities as requested by the board.

(c) The advisory committee may:

(1) Facilitate the development of materials to educate the public concerning music therapist certification, the benefits of music therapy, and utilization of music therapy by individuals and in facilities or institutional settings; and

(2) Facilitate the statewide dissemination of information between music therapists, the American Music Therapy Association or any successor organization, the Certification Board for Music Therapists or any successor organization, and the advisory committee chair.

(d) The rules promulgated by the advisory committee for the implementation of this part must:

(1) Provide for the requirements for certification as set forth in § 63-11-605;

(2) Take into consideration the standards of ethics and professional conduct of the code of ethics of the American Music Therapy Association and code of professional ethics of the Certification Board for Music Therapists in effect on January 1, 2024, or any successor organization.

63-11-605.

(a) Applicants for certification as a certified professional music therapist shall submit an application and fee to the advisory committee.

(b) The application must include evidence that the applicant meets the following requirements for certification:

(1) The applicant has attained the age of majority;

(2) The applicant is of good moral character and conducts the applicant's professional activities in accordance with accepted professional and ethical standards;

(3) The applicant has not had a professional credential refused, revoked, suspended, or restricted and does not have a complaint, allegation, or investigation pending in any regulatory jurisdiction in the United States or in another country for unprofessional conduct, unless the advisory committee finds that the conduct has been corrected or that mitigating circumstances exist that prevent resolution;

(4) The applicant:

(A) Holds a bachelor's degree or higher in music therapy, or its equivalent, including clinical training hours from a music therapy program within an accredited college or university;

(B) Provides proof of passing the examination for board certification offered by the certification board for music therapists or any

successor organization or provides proof of being transitioned into board certification; and

(C) Provides proof that the applicant is currently a board-certified music therapist.

63-11-606.

(a) The advisory committee may, at its discretion, grant a certificate to any person residing or employed in this state who is certified by a similar entity in another state whose standards, as determined by the advisory committee, are not less stringent than the standards required by this part.

(b) The advisory committee may enter into a reciprocal agreement with another state or jurisdiction that certifies individuals engaged in the practice of professional music therapy, if the advisory committee determines that the other state has substantially similar or more stringent certification requirements than this state.

63-11-607.

(a) A professional music therapist certification issued under this part is valid for twenty-four (24) months from the date of issuance.

(b) A certified professional music therapist requesting renewal of a certificate must provide the following to the advisory committee in advance of the expiration date of the certificate:

(1) A completed application on a form provided by the advisory committee and payment of the fee set by the advisory committee; and

(2) A certified or sworn statement to the advisory committee that the certified professional music therapist:

(A) Has completed at least forty (40) hours of continuing education prior to the expiration date of the certificate;

(B) Has not had a professional credential revoked, suspended, or restricted by the certification board for music therapists, and does not

have a complaint, allegation, or investigation pending in this state or in any regulatory jurisdiction for unethical or unprofessional conduct; and

(C) Has proof of maintenance of the certified professional music therapist's status as a board-certified music therapist.

(c) If a certified professional music therapist fails to submit an application for certificate renewal, to pay any fee required by the advisory committee, or to submit a certified or sworn statement as set forth in subdivision (b)(2) prior to the expiration date of the certificate, then the certificate is automatically revoked by the advisory committee without further notice or hearing, unless renewal is completed and all fees are paid prior to the expiration of sixty (60) days from the date of the expiration of the certificate.

(d) A person whose certificate is automatically revoked under this section may apply in writing to the advisory committee for reinstatement of the certificate. Upon the showing of good cause by the person and submitting documentation that all continuing education requirements have been satisfied, the advisory committee may reinstate the certificate upon the payment of all fees set by the advisory committee.

(e) Applicants and certified professional music therapists must notify the advisory committee of the following within thirty (30) days of their occurrence:

(1) A change of name, address, or other vital information;

(2) The filing of any criminal charge or civil action against the applicant or certified professional music therapist;

(3) The initiation of any disciplinary charges, investigations, findings, or sanctions by a healthcare organization, federal or state agency, or other professional association against the applicant or certified professional music therapist; and

(4) Any other change in information provided by the applicant or certified professional music therapist to the committee.

63-11-608.

(a) A person shall not use the title "certified professional music therapist," or "certified music therapist," or use any abbreviation to indicate or imply that the person is certified as a professional music therapist in this state unless the person holds a certificate issued by the advisory committee under this part.

(b) Subsection (a) does not prohibit:

(1) A person who is licensed, certified, or regulated under the laws of this state in another profession or occupation, including physicians, psychologists, psychoanalysts, registered nurses, marriage and family therapists, social workers, occupational therapists, professional or rehabilitation counselors, speech-language pathologists or audiologists, or personnel supervised by a licensed professional from performing work, including the use of music, that is incidental to the practice of the person's licensed, certified, or regulated profession or occupation, if the person does not represent their self as a music therapist;

(2) A person whose training and national certification attests to the individual's preparation and ability to practice their certified profession or occupation, if the person does not represent their self as a music therapist;

(3) A practice of music therapy as an integral part of a program of study for students enrolled in an accredited music therapy program, if the student does not represent their self as a music therapist; or

(4) A person who practices music therapy under the supervision of a certified professional music therapist, if the person does not represent their self as a music therapist.

63-11-609.

(a) A certified professional music therapist may practice independently for and with organizations that include, but are not limited to, addiction and rehabilitation centers, music studios and centers, behavioral health hospitals and outpatient settings,

cancer treatment centers, community centers, community services boards, correctional facilities, disability services, eating disorder clinics, government agencies, medical hospitals and outpatient settings, military bases and veterans and family services, museums, nonprofits, nursing homes, physical rehabilitation centers, residential treatment centers, schools, senior living facilities, state programs, and wellness centers.

(b)

(1)

(A) Before a certified professional music therapist provides music therapy services to a client for an identified clinical or developmental need, the certified professional music therapist shall review the client's diagnosis, treatment needs, and treatment plan with the healthcare providers involved in the client's care.

(B) During the provision of music therapy services to a client, the certified professional music therapist shall collaborate, as applicable, with the client's treatment team, including the client's physician, psychologist, licensed clinical social worker, or other mental health professional. During the provision of music therapy services to a client with a communication disorder, the certified professional music therapist shall collaborate and discuss the music therapy treatment plan with the client's audiologist or speech-language pathologist so that a music therapist may work with the client and address communication skills.

(2) Before a certified professional music therapist provides music therapy services to a student for an identified educational need in a special education setting, the certified professional music therapist shall review the student's diagnosis, treatment needs, and treatment plan with the individualized family service plan or individualized education program team.

(3) When providing educational or healthcare services, a certified professional music therapist shall not replace the services provided by an audiologist or a speech-language pathologist. Unless authorized to practice speech-language pathology, music therapists shall not evaluate, examine, or provide instruction or counsel on speech, language, communication, and swallowing disorders and conditions. An individual certified as a professional music therapist shall not represent to the public that the individual is authorized to treat a communication disorder. This subdivision (b)(3) does not prohibit a person certified as a professional music therapist from representing to the public that the person is qualified to work with clients with communication disorders and to address communication skills.

63-11-610.

In addition to any other authority granted under this part, certified professional music therapists may:

(1) Accept referrals for music therapy services from medical, developmental, mental health, or education professionals; family members; clients; caregivers; or others involved with and authorized to provide client services;

(2) Conduct a music therapy assessment of a client to determine if treatment is indicated. If treatment is indicated, then the certified professional music therapist may collect systematic, comprehensive, and accurate information to determine the appropriateness and type of music therapy services to provide for the client;

(3) Develop an individualized music therapy treatment plan for the client that is based upon the results of the music therapy assessment. The music therapy treatment plan should include individualized goals and objectives that focus on the assessed needs and strengths of the client and specify the music

therapy approaches and interventions to be used to address these goals and objectives;

(4) Implement an individualized music therapy treatment plan that is consistent with any other developmental, rehabilitative, habilitative, medical, mental health, preventive, wellness care, or educational services being provided to the client;

(5) Evaluate a client's response to music therapy and the music therapy treatment plan, documenting change and progress, and suggesting modifications, as appropriate;

(6) Develop a plan for determining when the provision of music therapy services is no longer needed in collaboration with the client, physician, or other provider of health care or education of the client, family members of the client, and any other appropriate person upon whom the client relies for support;

(7) Minimize barriers to ensure that the client receives music therapy services in the least restrictive environment;

(8) Collaborate with and educate the client and the family, caregiver of the client, or any other appropriate person regarding the needs of the client that are being addressed in music therapy and the manner in which the music therapy treatment addresses those needs; and

(9) Utilize their appropriate knowledge and skills to practice, which include the use of research, reasoning, and problem-solving skills in determining appropriate actions in the context of each clinical setting.

63-11-611.

This part does not permit a certified professional music therapist to engage in a psychological practice as described in part 2 of this chapter.

63-11-612.

(a) The advisory committee may deny a person's application for a certificate, restrict, suspend, or revoke an existing certificate, or take other action that the advisory committee deems proper.

(b) The grounds upon which the advisory committee may exercise the powers enumerated in subsection (a) include, but are not limited to:

(1) Obtaining or attempting to obtain a certificate by making a false or misleading statement, failing to make a required statement, or engaging in fraud or deceit in any communication to the advisory committee;

(2) Violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, a criminal statute of this state, a provision of this part, a rule promulgated by the advisory committee, or a lawful order of the advisory committee issued pursuant to rules;

(3) Gross or repeated negligence, incompetence, misconduct, or malpractice in professional work, including, but not limited to:

(A) A physical or mental condition that currently impairs a certified professional music therapist's competent professional performance or that poses a substantial risk to the recipient of music therapy services;

(B) Professional conduct that constitutes an extreme and unjustified deviation from the customary standard of practice accepted in the professional practice of music therapy;

(C) Abandonment of a service recipient resulting in the termination of imminently needed care without adequate notice or provision for transition;

(D) Professional recordkeeping or data collection that constitutes an extreme and unjustified deviation from the customary standard of practice for the field, or deceptively altering a service recipient's records or data; and

(E) Unauthorized disclosure of confidential client information, including, but not limited to, client records, music work, and artistic expressions; and

(4) Any other action deemed to be grounds for disciplinary action under rules promulgated by the advisory committee.

(c) All proceedings for disciplinary action against a certified professional music therapist under this part must be conducted in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

63-11-613.

To effectuate this part, the advisory committee is authorized to promulgate emergency rules pursuant to § 4-5-208(a)(5).

SECTION 3. For the purpose of appointing members and rulemaking, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect January 1, 2024, the public welfare requiring it.